

PT 01-71

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

CATLIN HISTORICAL SOCIETY)		
Applicant)	A.H. Docket #	99-PT-0056
)	Docket #	99-92-14
v.)		
)	Parcel Index #	CTLN 1342
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson, Springfield, Illinois, on November 27, 2000, to determine whether or not Vermilion County Parcel Index No. CTLN 1342 qualified for exemption during the 1999-assessment year.

Mr. Terry Dolan, co-chairman of the Catlin Historical Society, (hereinafter referred to as the "Applicant") and Mr. James A. Jones, restoration chairman and log cabin committee member for the applicant were present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant was the owner of the parcel during the 1999-assessment year; secondly, whether the parcel was used or in the process of being adapted by the applicant for exempt purposes during the 1999-assessment year; and lastly, whether the applicant complied with subsection (f) of the statutory charitable exemption (35 ILCS 200/15-65(f)). After a thorough review of the facts and law presented, it is recommended that the requested exemption be granted for the 1999-assessment year. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section

100/10-50 of the Administrative Procedure Act (5 **ILCS** 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Vermilion County Parcel Index No. CTLN-1342 did not qualify for a property tax exemption for the 1999-assessment year was established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 11)

2. In 1988 the applicant was incorporated under the Not-For-Profit Corporation Act of the State of Illinois "for the exclusive educational purpose of collecting and preserving any and all available types of historical material connected with the history of the Catlin, Illinois area and its environment and to make this material available to the general public by operating an historical museum displaying such materials as permitted under Section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code." (Dept. Ex. No. 1)

3. The applicant is exempt from payment of Federal income tax pursuant to a determination by the Internal Revenue Service that the applicant qualifies as a charitable organization under §501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 1)

4. The applicant owns and operates the Catlin Heritage Museum located at 212 N. Paris Street, Catlin, Illinois. The museum was granted a property tax exemption pursuant to Docket No. 88-92-22. (Dept. Ex. No. 1)

5. On May 19, 1999, the Department received the request for exemption of Vermilion County Parcel Index No. CTLN 1342. On September 2, 1999, the Department denied the request because "[T]he property is not in exempt use. The applicant failed to submit evidence of compliance with subsection (f) of Section 15-65 (35 **ILCS** 200/15-65(f)) which requires all taxing districts within which the property is situated to adopt a resolution finding that the historical society is a charitable organization using the property exclusively for charitable purposes." (Dept. Ex. No. 1)

6. The applicant acquired the subject property on May 18, 1998, by a warranty deed. (Dept. Ex. No. 1)

7. Three buildings are located on the subject parcel at 502 South Sandusky, Catlin, Illinois. They include a dwelling place, consisting of 1,381 square feet, a 452 square foot garage, and a 912 square foot workshop. Located inside the dwelling place in the living room area is an 18-ft by 20-ft log cabin believed to have been built around 1830, probably in 1829. (Dept. Ex. No. 1; Applicant's Ex. Nos. 2, 4, 6; Tr. pp. 32-33)

8. Meetings of the applicant were held in 1999 to determine how to best serve the community and display the log cabin. Experts on historical log cabins visited the site and offered advice. Steps were taken to organize a fund raising campaign. Grant applications were sought. Safety issues and handicap accessibility while the cabin renovations took place were addressed. (Applicant's Ex. No. 1; Tr. pp. 17-21)

9. Preliminary architectural drawings of the log cabin were submitted to the applicant on December 7, 1998. The drawings suggested substantial changes to the house in order to be able to display the log cabin. Noted on the drawings, among remodeling needs are the facts that new footing and foundation are needed to be placed under the log cabin; walls and roofs needed to be removed; and the log cabin needed to be made accessible for the handicapped. (Applicant's Ex. No. 5; Tr. pp. 34-37)

10. At the February 1, 1999, board meeting of the applicant, a second set of blueprints was presented, noting changes made. On February 8, 1999, the log cabin committee met and discussed the architecture plans and improvements that needed to be made and the costs and feasibility of those improvements. Research had been done on the Sandusky family that presumably had at one time owned the cabin. (Applicant's Ex. No. 1; Tr. p.)

11. The May 1, 1999, log cabin committee meeting minutes show committee agreement with using the services of Tom Vance who is connected with the State Historical Society. Mr. Vance is a Lincoln Log Cabin Administrator in Charleston, Illinois and superintendent of the Lincoln Log Cabin State Historic site near Lerna, Illinois. As the town was platted in 1850, it was speculated that the town was laid out around the cabin. The plat shows the unique feature of three streets around cabin building. Costs and construction were also

discussed at the meeting. Tours were taken through the cabin in 1999. The applicant discussed the need to take time for the restoration because the cabin is invaluable. (Dept. Ex. No. 1; Applicant's Ex. No. 1; Tr. pp. 21-23, 29-30, 34)

12. At applicant's May 3, 1999, board meeting, the log cabin committee announced that it had been determined that it is feasible to leave the cabin structure at its present site and proceed with plans to make it a permanent asset in the community. (Applicant's Ex. No. 1)

13. The July 21, 1999, log cabin committee meeting discussion centered upon getting money to complete the project. Possible donators for materials were discussed. The meeting with Tom Vance might be used to help educate the public about the project. The log cabin committee met again on August 4, 1999, to discuss the cabin project. It was decided that no fees would be charged to tour the cabin, but donations are accepted. There are no restrictions regarding touring the property. A brochure about the cabin was discussed. (Applicant's Ex. No. 1; Tr. pp. 37-38)

14. At the August 30, 1999, board meeting of the applicant, a long-range community program was discussed. A grant of \$20,000.00 must go to the log cabin project and paperwork must now be completed. (Applicant's Ex. No. 1)

15. The log cabin committee minutes for September 8, 1999, disclose that the property tax exemption and need for resolutions from the taxing districts were discussed. Different types of grants and how the monies can be used were also addressed. (Applicant's Ex. No. 1)

16. At the October 4, 1999, board meeting of the applicant, the grant application was discussed as well as the property tax exemption. The log cabin committee met on October 6, 1999. The property tax exemption request and resolutions were discussed. Grants and fundraisers were again addressed. A sample brochure was presented. (Applicant's Ex. No. 1)

17. The November 1, 1999, board-meeting minutes state that insulation is in the log cabin and that the hot water heater was turned off. The co-chair of the log cabin project continues to work on fund raising. (Applicant's Ex. No. 1)

18. At the December 6, 1999, board meeting it was decided to have a joint January 2000 board meeting with the log cabin committee to ascertain exactly how far the fund raising, renovations, and other improvements had progressed. (Applicant's Ex. No. 1)

20. At least one if not more layers of various types of construction cover the logs. During 1999, the applicant carefully removed wallboard and coverings from the logs. The original chinking material appears to be clay mixed with organic matter. The applicant discovered that square nails and sawed wood lathes had been used in the construction of the building. At least 144 volunteer hours were spent on the actual reconstruction of the building in 1999. The applicant gave at least 50 people a tour of the log cabin. The applicant is proceeding slowly with the project in order to preserve the structure, and display the different stages of usage of the building over the years. The garage and shop are used to store tools and materials used to dismantle and restore the cabin. (Dept. Ex. No. 1; Applicant's Ex. Nos. 1 & 2; Tr. pp. 23-24, 30-34, 42-48)

21. The applicant has produced two brochures about the Sandusky Log Cabin. Included in one brochure is detailed campaign information about the log cabin project. The applicant needs a total of \$219,000.00 to complete the three phases necessary to create the historical, educational, and interpretive center planned for the log cabin. The applicant has already purchased the property for \$64,000.00 and that figure is included in the necessary \$219,000.00. The second brochure has "before" and "after" pictures of the project as well as campaign information. (Applicant's Ex. Nos. 4 & 6; Tr. pp. 38-41)

22. The applicant obtained the required resolutions from Catlin Unit School District #5, the Catlin Fire Protection District, the Vermilion County Board, Catlin Township, Catlin Library District, Vermilion County Airport Authority, the Village of Catlin, the Vermilion County Conservation District, the Highway Commissioner, and Danville Area Community College. (Dept. Ex. No. 1; Applicant's Ex. Nos. 1 & 3)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the charitable provision found at 35 ILCS 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, * * *
- (f) An historical society, for the purpose of this Section, shall be deemed to be a charitable organization eligible for a property tax exemption under this

Section only if all taxing districts within which the property is situated have adopted a resolution finding that the society is a charitable organization using the property for charitable purposes.¹

The applicant acquired the subject parcel by a warranty deed dated May 18, 1998, thereby establishing that it owned the subject parcel during the entire 1999-assessment year. At the hearing, the applicant submitted the resolutions in compliance with the requirement of subsection (f) of the charitable property tax exemption (35 ILCS 200/15-65(f)). Therefore, by the terms of the statute, applicable at the time, the applicant, an historical society, is deemed to be a charitable organization for purposes of this exemption. Thus, the only remaining question is whether this property was in exempt use in 1999, or whether the applicant was adapting the property for exempt use in 1999.

The applicant does not intend, nor has it charged a fee for people touring the log cabin. The only restriction on people viewing the property is safety concerns. The applicant is taking the time to painstakingly remove the coverings and wallboard from the logs and restore the building to its original form and show the various stages of adaptation. The garage and shop are used to store tools and materials used to dismantle and restore the cabin. The applicant is in the midst of submitting grant applications and a campaign to fund the project.

Illinois Courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st. Dist. 1977); and Weslin Properties Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). I therefore conclude that because the applicant was in the process of restoring the log cabin and discussing the viability of the project during all of the 1999-assessment year, it was in the process of adapting said property for exempt use. The

1 . It is noted that P.A. 91-416, § 5, eff., Aug. 6, 1999, amended this section of the property tax code to exclude the language allowing the taxing districts to make a determination that an historical society is a charitable organization using the property for charitable purposes. Therefore, any future determination as to the exempt nature of this property would require the application of different statutory criteria.

garage and shop were used to aid in the adaptation.

For the foregoing reasons, it is recommended that Vermilion County Parcel Index No. CTLN 1342 be exempt from property tax for the 1999-assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
November 15, 2001